

**REMARKS**

Claims 1-31 are pending in the application.

Claims 1-31 have been rejected.

Claims 1, 16, 27 and 30 have been amended, as set forth herein.

I. **STATUS OF PREVIOUSLY FILED APPEAL**

Applicant notes that an appeal (and appeal brief) were filed on May 3, 2004, and the present Office Action is re-opening prosecution of this case on new grounds of rejection (and newly cited art).

II. **REJECTION UNDER 35 U.S.C. § 102**

Claims 1-31 were rejected under 35 U.S.C. § 102(e) as being anticipated by Brilla (US 6,389,276). The rejection is respectfully traversed.

A cited prior art reference anticipates the claimed invention under 35 U.S.C. § 102 only if every element of a claimed invention is identically shown in that single reference, arranged as they are in the claims. MPEP § 2131; *In re Bond*, 910 F.2d 831, 832, 15 U.S.P.Q.2d 1566, 1567 (Fed. Cir. 1990). Anticipation is only shown where each and every limitation of the claimed invention is found in a single cited prior art reference. MPEP § 2131; *In re Donohue*, 766 F.2d 531, 534, 226 U.S.P.Q. 619, 621 (Fed. Cir. 1985).

Brilla recites that when a new voicemail message is received in a landline-based voicemail system, a remote notification is sent to a wireless mobile telephone to indicate that

the voicemail message is present in the voicemail system. The message platform outputs an email message (having as its content the destination number of the mobile telephone) to an address of a server in the wireless network. The server then generates a command which is sent to the mobile telephone that causes the mobile telephone to activate a message waiting indicator - indicating that a new voicemail message is waiting at the landline premises. Brilla, Abstract; Col. 6, line 54 thru Col. 11, line 44. As such, Brilla teaches that a “mobile subscriber can be alerted via his or her mobile telephone 122 of a message stored from an incoming call to his or her landline telephone 104.” Col. 11, lines 42-44.

Applicant is unsure whether the Office Action is arguing (1) that Brilla sends the voicemail message (in the landline voicemail system) to the determined communication address (mobile telephone), or (2) that Brilla’s landline voicemail system is the determined communication address related to the called party and, that apparently the message from the caller is sent to the landline voicemail system (e.g., the determined communication address) and meets both the receiving and sending elements/features of Applicant’s independent claims. No matter the interpretation, Applicant has amended independent Claims 1, 16, 27 and 30 to clarify and more distinctly point out that (1) a message composed by the calling party is received, (2) the received message is recorded, and (3) the recorded message is sent to the determined communication address.

Brilla does not disclose that the recorded voicemail message is sent to the mobile telephone - only a command is sent to the mobile telephone which provides notification that the voicemail is present in the landline voicemail system. Moreover, Brilla does not disclose that

a message composed by the calling party is received and recorded, and the recorded message is sent to the determined communication address of the called party. Therefore, Brilla fails to disclose each and every element/feature of the Applicant's invention.

Accordingly, the Applicant respectfully requests the Examiner withdraw the § 102(e) rejection of Claims 1-31.

### III. CONCLUSION

As a result of the foregoing, the Applicant asserts that the remaining Claims in the Application are in condition for allowance, and respectfully requests an early allowance of such Claims.

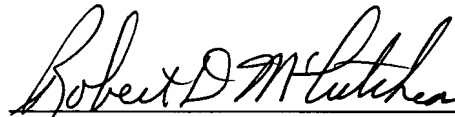
If any issues arise, or if the Examiner has any suggestions for expediting allowance of this Application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at *rmccutcheon@davismunck.com*.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Davis Munck Deposit Account No. 50-0208.

Respectfully submitted,

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